

June 14, 2005

(b) (6)

Oakland, CA 94607-1018

Subject: Unauthorized Use & Occupancy Fee Due

Dear (b)(6),

In my last letter I notified you that the Unauthorized Use and Occupancy (U&O) fee for your use of State-owned Aquatic land began accruing May 5, 2005. The U&O fee per WAC 332-30-127 is charged at a rate sixty percent higher than fair market value, which equals eighty-one dollars and four cents (\$81.04) per day. Payment of the Use & Occupancy fee is due by the tenth day of every month until the vessel is removed. The fee conveys no rights in advance.

Your bill for Unauthorized Use & Occupancy of State Owned Aquatic Lands for moorage of the Ked off Port Washington Narrows for the period May 5 through May 31, 2005 is \$2,188.20. This amount was due June 10, 2005. Please send your payment to Shoreline District, Aquatics Region, Department of Natural Resources, 950 Farman Avenue North, Enumclaw, WA 98022-9282. DNR may take action against you for amounts more than 30 days past due.

In case you are not aware, I wanted to let you know that there may be homeless people living on or using your vessel. I have also had several reports that the vessel has taken on water in its hold and at least one report that this water may be contaminated with oil or other hazardous materials. As you may be aware, I have contacted Dick Walker at the Department of Ecology's Spill Response Unit.

I am aware that you are trying to sell the Ked. If you do sell the vessel, you will be responsible for U&O fees up until the transfer of custody to a new owner. Please be sure to file a Report of Sale with the Washington Department of Licensing (RCW 46.12.101 and 46.55) and have the new owner complete any necessary vessel registration with the Washington Department of Licensing and the US Coast Guard.

Currently, the Department of Natural Resources, or any other authorized public entity, acting with the authority granted in Revised Code of Washington (RCW) 79.100, could take custody of the vessel. Once custody is obtained, the authorized public entity can use or dispose of the vessel in any appropriate and environmentally sound manner without further notice to the owner. In the event that an authorized public entity begins custody proceedings, and in order for the registered owner to retain custody of the vessel, the owner would be required to move it to an anchorage area or moorage facility that has authorized the vessel, or remove the vessel from the water.

If the owner wishes to redeem the vessel once an authorized public entity has taken custody, the owner must commence a lawsuit to contest the authorized public entity's decision to obtain custody of the vessel, or the amount of reimbursement owed, in the superior court of the county in which the vessel is located. The lawsuit must be commenced within twenty days of losing custody or the owner's right to a hearing is waived and they will be liable for any costs owed to the authorized public entity.

The costs the owner may be liable for include, but are not limited to, costs incurred exercising the authority granted in RCW 79.100.030, all administrative costs incurred by the authorized public entity

during the procedure set forth in RCW 79.100.040, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel. These costs are in addition to any Unauthorized Use and Occupancy fees accrued up to the day the authorized public entity takes custody.

I have added your vessel to our derelict vessel removal list. If the Ked is not removed by June 30, 2005 I will be pursuing custody of the vessel per RCW 79.100 when funds allow, alone or in conjunction with any actions taken by the Department of Ecology and/or the United States Coast Guard.

As always, if you have any questions or wish to discuss any points in this letter please call me at 253-797-5146.

Signed,

Melissa Montgomery
Aquatic Land Manager

c: Region File
 Aquatic Resources File
 Terry Pruitt, Assistant Attorney General
 Dick Walker, Department of Ecology
 LCDR Cocanour, US Coast Guard